

APPEAL NO. 031485
FILED JULY 22, 2003

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on May 8, 2003. With respect to the issue before him, the hearing officer determined that the appellant's (claimant) compensable injury of _____, does not extend to and include a herniated nucleus pulposus at L4-5. In his appeal, the claimant argues that the hearing officer's determination is against the great weight of the evidence. In its response to the claimant's appeal, the respondent (carrier) urges affirmance. At the hearing, the parties stipulated that the compensable injury did not include a herniated nucleus pulposus at L3-4.

DECISION

Affirmed.

The claimant had the burden to prove that his _____, compensable injury included a herniated nucleus pulposus at L4-5. That issue presented a question of fact for the hearing officer. There was conflicting evidence presented on the disputed issue. The 1989 Act makes the hearing officer the sole judge of the weight and credibility to be given to the evidence. Section 410.165(a). As such, the hearing officer was required to resolve the conflicts and inconsistencies in the evidence and to determine what facts the evidence established. In this instance, the hearing officer simply was not persuaded that the claimant sustained his burden of proving that his compensable injury included the herniated disc at L4-5. The hearing officer was acting within his province as the finder of fact in so finding. Nothing in our review of the record reveals that the challenged determination is so contrary to the overwhelming weight of the evidence as to be clearly wrong or unjust. Thus, no sound basis exists for us to disturb that determination on appeal. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

The hearing officer's decision and order is affirmed.

The true corporate name of the insurance carrier is **NEW HAMPSHIRE INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**CORPORATION SERVICE COMPANY
800 BRAZOS, SUITE 750
AUSTIN, TEXAS 78701.**

Elaine M. Chaney
Appeals Judge

CONCUR:

Chris Cowan
Appeals Judge

Robert W. Potts
Appeals Judge